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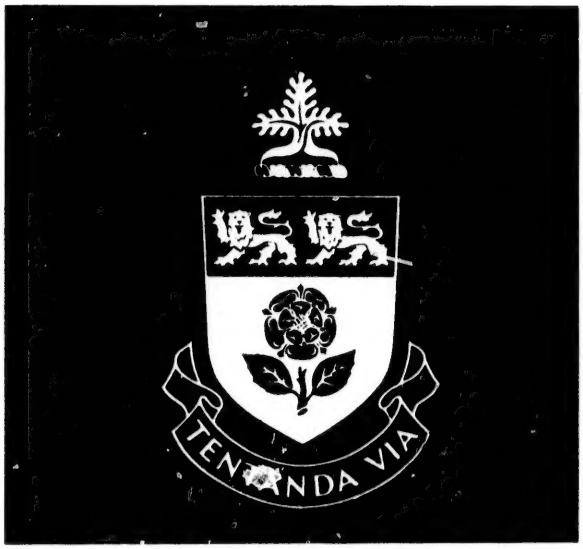

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OBSERVATIONS

ON THE POLICY OF A

GENERAL UNION

OF ALL

THE BRITISH PROVINCES

OF

NORTH AMERICA.

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OBSERVATIONS, &c.

SOME of the most enlightened men of both the Canadas, and I believe in the other provinces, have for many years considered a general Union of the British territories in North America a measure of the greatest importance; and not only highly expedient, but likely to produce the most beneficial results, both to the colonies and to the parent state.

The policy of such a measure had frequently engaged my attention, before the Union of Upper and Lower Canada was projected; but since that has been in agitation, I have set myself to examine it more minutely, and it certainly appears to me, that every argument that can be adduced in favour of the partial, applies with much more force to the general Union, and that the probability of its success is much better founded. Indeed, many persons of great intelligence are apprehensive that the advantages expected from uniting the legislatures of the Canadas will not be realized, and their dislike to the measure arises not from its principle, which is certainly good, nor from any personal or selfish motives, but from the fear the collision of parties will be so great, and so nearly balanced, as to paralyze any effort to promote the prosperity of the provinces.

A communication was made to me, while examining the subject of the general Union, by a respectable gentleman of Quebec, enclosing a scheme from the chief justice of Lower Canada, shewing its expediency, and pointing out what he conceived to be the necessary details.—Not having this scheme fully in my recollection, I cannot remark particularly on its contents; but with much to praise, it appeared to me too confined in its views, and to propose too small a number of members for the general legislature, to enable it to assume that dignified position which it ought to maintain.

Sewell (Jon.)

As this scheme was sent for my opinion and remarks, I was going to state them at more length, when the Attorney General returned from England, and shewed me a paper which he had drawn up on the general Union, which appeared to me superior to any thing that I could write upon the subject. As the paper is, I believe, in the possession of government, I shall confine myself to a brief outline of the constitutional powers to be conferred on the legislature, subjoining a few of the advantages which are, in my opinion, certain to follow its adoption.

Robinson

This outline, with Mr. Robinson's eloquent elucidation, will, it is hoped, present a tolerable view of the subject in all its bearings.

In regard to Major Wilford's paper, it contains much good feeling, and is highly creditable, but the subject matter has been more than anticipated, except our immediate danger from the United States,

* Possibly "Remarks" - (of preceding pamphlet)

of which I am not at present apprehensive. But as it is a danger which will be felt so soon as Great Britain is fully employed, I submit a very few observations on its nature, and the means of checking it, as they are not commonly entertained, nor foreign to the subject.

The United States of America can only become formidable to this country as a Naval power, but so long as we retain our North American Provinces, we possess the means of checking its growth, and of preventing it from becoming dangerous.

The basis on which the Naval power of the American States rests, is much narrower than is commonly apprehended. Her nursery for seamen is confined to part of her coast, and to her fisheries.—The coast alluded to stretches from New York, to the River la Croix, where the British provinces commence; now this is not half so extensive as the coast which Great Britain still possesses, namely, the coast of New Brunswick, Nova Scotia, the Gulf of St. Lawrence, Labrador, and Newfoundland. The Eastern or New England States occupy this coast, and supply all the sailors of the United States; for you can hardly find one in any vessel, who is not born north of New York. Hence, if we examine the crews of American vessels, merchant or national, we seldom find a man from the States south of the Hudson, the inhabitants of which are, from inclination or habit, averse to becoming mariners. This accounts for the vast number of Foreigners always to be

found navigating American ships; comparatively speaking, they have few native sailors, and are therefore obliged to have recourse to Europeans, and chiefly to English, to complete their crews. The fisheries which they are permitted to carry on along the coast of the British provinces, and on the bank of Newfoundland, produce more seamen to them than all their other navigations; nevertheless, the number from both sources is quite inadequate to the manning of an extensive navy.

Were the United States in possession of the British provinces, this matter would be quite changed; for then they would possess a more extensive coast than Great Britain, and the finest fisheries in the world on their very shores. But as things now are, we have only to consolidate the provinces, in order to produce greater enterprise, and by judicious regulations to encourage the fisheries among our own people. Every advantage is in our favour,—we can dry our fish upon our own shores, and with such convenience, that many of our fishermen may sleep in their own houses every night. It only requires a strong government, to induce capitalists to invest their money in the fisheries, by which they would become so great gainers.

The magnitude of the fisheries, and their importance to the United States, not merely as a nursery for seamen, but as a source of revenue and of annoyance to their enemies, are well known. At the commencement of the revolution, the Americans had

15,000 fishing vessels, most of which, on the breaking out of the war, were transformed into privateers, to prey upon our commerce; and with such effect, that they captured nearly one-fifth of all the merchantmen belonging to Great Britain. Last war, the effect was similar, and the loss during the first eighteen months very considerable.

But were there a government of sufficient weight and ability to take advantage of its territorial situation, and to call forth its resources, the coast of Nova Scotia would be covered with fishermen, who could follow their business with much more convenience and advantage than the Americans, and by selling cheaper, first rival, and then excel them in this traffic, which would at length become a nursery of seamen, capable of checking the Naval power of the United States on their own shores, where it is most vulnerable, and this without any expense to government.

SKETCH OF A CONSTITUTION
FOR
BRITISH NORTH AMERICA.

1st. The legislative powers herein granted shall be vested in a general assembly or parliament of the British provinces of North America, consisting of the Governor, Lieutenant Governor, &c. &c., a legislative council, and house of assembly.

2d. The legislative council shall be composed of members, to be chosen by the Governor,

Lieutenant Governor, or person administering the government of the several provinces, from their respective legislative councils, and to continue for a like period as the members of the house of assembly.

3d. The house of assembly shall be composed of members, chosen by the provincial assemblies, from among their own members, during the first week of the first session of each parliament, and to continue four years, or the same time as the inferior or provincial legislatures.

4th. The general legislature or parliament, shall have power

To levy and collect taxes, duties, imposts and excises—

To pay the debts, and provide for the general peace and welfare of the different provinces.

To establish uniform commercial regulations between the different provinces, and between them and foreign countries, provided the same be not repugnant to the laws of Great Britain.

To establish uniform laws of bankruptcy through all the provinces.

To determine all disputes or questions of revenue that may arise between the provinces.

To regulate the navigation of rivers and lakes common to two or more provinces, or common to any province or provinces and a foreign power.

To open internal communications for the general advantage, such as roads, canals, &c.

To provide for calling forth the militia to execute the laws, to suppress insurrection, to repel invasion, and to adopt and establish a uniform system of militia laws.

5th. This general legislature shall not have power to tax any articles exported from any colony; nor shall any preference be given, by any regulation of commerce or revenue, to the ports of one province over those of another; nor shall the vessels of one province pay duties in another.

6th. All bills for raising revenue shall originate in the house of assembly, but the legislative council may propose or concur with amendments, as in other bills.

7th. There shall be a Court of King's Bench, to take cognizance of causes respecting the breach of the union laws, and controversies between the inhabitants and foreigners.

8th. This shall likewise be a court of appeal from the provincial courts, whose decision shall be final. All papers and proceedings to be in the English language, not only in the superior, but in the inferior provincial courts.

9th. Full faith and credit shall be given in each province to the public acts, records, and judicial proceedings of the other provinces.

10th. The inhabitants of each province shall be entitled to all the privileges and immunities of inhabitants of the other provinces.

11th. A person charged in any province with

treason, felony, or other crime, who shall flee from justice, and be found in any of the other provinces, shall, on demand of the executive authority of the colony from which he fled, be delivered up to be removed into the province having jurisdiction of the crime.

12th. The portion of the revenue, at the disposal of the parliament for public purposes, shall be the surplus after defraying the expense of the civil governments of the respective provinces, which shall be settled, after due consideration, by a general enactment

Several other powers, such as that of impeachment in certain cases, restraining the provincial legislatures from emitting bills of credit, passing any law impairing the obligation of contracts, or imposing duties on imports or exports, &c., might be conferred on the general Parliament.

ADVANTAGES.

The advantages resulting from this general union, possessing the liberal and free constitution which has been briefly noticed, are many and important; we shall mention a few of the most obvious.

Such an Union would connect the different provinces so intimately as must ensure a community of feeling as well as interest, and so carry the popular voice along with it.

The number of members, being comparatively few, could be more easily managed, and being composed

of the most intelligent men from all the colonies, a more liberal policy would be adopted in their proceedings than can be expected from the provincial legislatures.

A seat in the legislative council or assembly would become a very great object of ambition, and success would produce nearly the same effect in aspiring young men, as a title in Great Britain.

The superior legislature would be naturally attached to the parent state as a link of connexion, and being composed of eminent men, their good sense and future hopes would induce them to value this advantage as the palladium of their safety and civil rights, the source of their prosperity and future prospects. At all events, the upper house can be so modelled, as to be always in the interest of the mother country, and thus prevent any bad laws from passing.

This Union, by consolidating the resources of the provinces, and directing them with unity of design, would become a great barrier against encroachments from the United States; a new field of laudable ambition for the youth, much beyond any thing now before them, would be opened; hence a love of their country would be strengthened, and the united provinces, from the growing attachment of their population, would daily become more formidable in war, and respectable in peace.

In regard to the province of Lower Canada, the feelings and apprehensions which at present distract

its peace, would gradually subside, without any disagreeable struggle. The Canadian character would, by degrees, sink into the English, without irritation, for they could never expect to acquire a paramount influence in a legislature of which they were only a component part. And as the language of the parent state would be the language of the superior legislature, in its proceedings, debates and laws, every man wishing to attain eminence must study to acquire it.

The great ease with which the colonies would be governed is not the least advantage.—All communications of importance would be from one, instead of five governments; and the little details, at present so perplexing, would find their solution from the superior government.

At present the Colonies are very liable to become estranged from each other, and to adopt different views respecting their own interests and the communication with Foreign States. The Union would cure these evils by preserving inviolable the interests of each, and adopting a uniform rule for all, in their intercourse with foreign powers.

The connexion between the North American colonies and the West Indies would soon become more intimate; commercial interests would no longer be confined to one province, but would range through the whole; and Halifax, instead of being almost unknown to the Canadas, might soon become a place of general depôt, and the port at which Canadians

might often embark for England, instead of proceeding by New York.

Indeed, the liberal commercial policy now adopted by the mother country cannot be rendered so beneficial to the colonies in their present disjointed state, as when united in their views and interests.

Another advantage of great moment is the greater influence of the established church; for by the provincial laws of New Brunswick and Nova Scotia, this church is recognised as established. Consequently, the Church of England having a decided majority in three of the provinces, the paramount influence of the Roman Catholic religion in Lower-Canada would be the less dangerous.

OBJECTIONS.

It may be said, that such a general legislature might become the focus of rebellion, and give unity and consistency to any attempt against the parent state, were misunderstandings ever to arise.—Now, it appears to me that this is far from probable; if such misunderstandings are confined to one province, or even two, the general government can judge of them impartially; if the misunderstandings are general, then the imperial government would attend to a representation from so respectable a body. It appears very probable that had there been a general government in America, the revolution never would have happened, for information from such a body would have been depended upon, for the members

coming from all parts of the country would have presented a more accurate account of the public mind.

But it may be apprehended that such a government might connect itself as an ally to the United States, or become part of that vast republic. This general government, like every other government, would look to its own interest, and attend to the continuance of its power, which would best be promoted by remaining faithful; since Great Britain has much in her own power to give, and consequently much to take away, and has hitherto been felt only by acts of kindness. For the general government to join the American states would be to sign its own destruction; and to become incorporated would be still worse. The inhabitants of British North America are quite sensible that they could gain nothing, but would become great losers, by attaching themselves to their neighbours; in truth, their vanity, their interest, their patriotism, forbid such a junction.

But difficulties may arise between the general government, and the provincial governments.

Such can produce little effect; the interests at issue will undergo a liberal discussion in the general parliament, and as the members which compose it are sent by different colonies, they will be naturally jealous of their rights and privileges, and will not suffer injustice to be done to any particular province, as the next case, were a precedent once made, might be their own.

It may be said that the general legislature would have nothing to do.

The business might, perhaps, for a few sessions be very soon despatched, but in a short time it would greatly accumulate.—In truth, many things of the utmost importance would immediately engage its attention; for even those, who state this as an objection, are ready to admit that the general Union will become necessary in a few years.

It may be said that the court of King's Bench, belonging to the general government, cannot become a court of appeals for Lower Canada, because its members would be ignorant of the law.

The feebleness of this objection must appear from the fact, that the chief justice of Lower Canada, with the exception of the present, has commonly been a Lawyer from the English Bar.—Mr. Osgood, Mr. Elmsley, Mr. Alcock, &c. Moreover, appeals from the Scotch courts to the House of Lords, where the opinion of the Lord Chancellor, an English lawyer, generally prevails, are finally decided; and yet the Scotch law is different from the English, and similar to that of Lower Canada.

But it may be urged, that a general Union meets not the principal difficulty, which is to make the French of Lower Canada gradually English, and to give to the English population a just share of political power.

A short enactment ordering the law-proceedings in the legislature and courts of justice of Lower

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Canada, to be in the English language, and in no other, would produce these advantages much sooner than by simply uniting the two provinces.—Moreover the vast influx of Emigrants under such a general government, would shortly of itself give sufficient rights in Lower Canada to the English population.

There appears perhaps nothing in the shape of a serious objection to the general Union, though most unquestionably many difficulties will present themselves in its details; but not, it is presumed, greater, than must be surmounted in joining the two Canadas. Seldom does it occur in the progress of legislation, that a measure pregnant with such grand and beneficial results is required; and if the great William Pitt considered the constitution which he conferred upon the Canadas one of the glories of his life, what glory may be expected to redound to the Statesman who gives a free constitution to all the British North American Colonies, and by consolidating them into one territory or kingdom, exalts them to a nation acting in unity and under the protection of the British empire, and thus preventing for ever the sad consequences that might arise from a rival power, getting possession of their shores.